

Message Text

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ACTION ARA-10

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FM AMEMBASSY LIMA

TO SECSTATE WASHDC 2917

INFO AMEMBASSY BOGOTA

AMEMBASSY CARACAS

AMEMBASSY LA PAZ

AMEMBASSY QUITO

AMEMBASSY SANTIAGO

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EO 11652: N/A

TAGS: ECIN, CO, EC, PE, VE, BO, CI

SUBJ: ANDEAN PACT COMMISSION CONTINUES TO REVISE RULES ON
FOREIGN INVESTMENT

1. SUMMARY: THE BRIEF 21ST ORDINARY SESSION OF THE ANDEAN PACT COMMISSION RESULTED IN FIVE NEW DECISIONS, THE MAJOR ONE OF WHICH FURTHER RELAXES THE STRICTURES OF DECISION 24 AND PROVIDES FOR A LIMITED SALE OF EXISTING SHARES TO FOREIGN INVESTORS. OTHER DECISIONS PERMIT BOLIVIA AND ECUADOR TO GRANT PRIMARY SECTOR CONCESSIONS IN LIVESTOCK RAISING, AND MODIFY THE LISTS OF PRODUCTS RESERVED FOR DEVELOPMENT BY THOSE TWO COUNTRIES.

2. THE ANDEAN PACT COMMISSION HELD ITS 21ST ORDINARY SESSION THE FIRST WITHOUT CHILE) NOVEMBER 25-30 AND ADOPTED DECISIONS 106 THROUGH 110. THE MOST SIGNIFICANT OF THESE (109) CONTAINED THE LATEST CHANGES TO DECISION 24 (TREATMENT OF FOREIGN CAPITAL). DECISION 109 FURTHER LIBERALIZES THE RULES FOR "NATIONAL INVESTORS" WHICH HAD BEEN EARLIER MODIFIED BY DECISION 103. ONE DEFINITION OF "NATIONAL INVESTORS" IS A FOREIGN NATIONAL RESIDING IN THE RECIPIENT COUNTRY WHO HAS RENOUNCED HIS RIGHT TO RE-EXPORT HIS CAPITAL

OR TO TRANSFER PROFITS ABROAD. A NEW THIRD PARAGRAPH IN ARTICLE
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I STATES THAT "EACH MEMBER COUNTRY MAY EXEMPT FROM THE RENUN-

CIATION FORESEEN IN THE PREVIOUS PARAGRAPH THOSE FOREIGN NATIONALS WHOSE INVESTMENTS HAVE BEEN GENERATED INTERNALLY." (COMMENT: THIS WOULD SEEM TO APPLY ONLY TO RESIDENT ALIENS AND NOT TO CORPORATIONS.)

3. A FURTHER REVISION OF THE NEW ARTICLE ADDED TO DECISION 24 BY DECISION 103 DEFINES CAPITAL INVESTMENT TO BE CONSIDERED "NEUTRAL." DECISION 103 HAD DEFINED IT AS "INVESTMENTS OF GOVERNMENT FINANCIAL INSTITUTIONS OR GOVERNMENTAL INSTITUTIONS FOR COOPERATIVE ECONOMIC DEVELOPMENT." THE NEW WORDING IN DECISION 109 IS "INVESTMENTS OF PUBLIC INTERNATIONAL FINANCIAL INSTITUTIONS OR GOVERNMENTAL INSTITUTIONS FOR COOPERATIVE ECONOMIC DEVELOPMENT." SUCCEEDING PARAGRAPHS IN DECISION 103 STIPULATED THAT SUCH INSTITUTIONS WOULD BE EXEMPT FROM THE OBLIGATION TO SELL THEIR SHARES (FADEOUT REQUIREMENT) BUT IF THE ENTERPRISE WERE SPLIT OR DISSOLVED SHARES COULD ONLY BE SOLD TO NATIONAL OR SUBREGIONAL INVESTORS. DECISION 109 NOW ALLOWS THE SALE OF SHARES TO FOREIGN INVESTORS AS WELL IF THERE IS PREVIOUS AUTHORIZATION BY THE COMPETENT NATIONAL AUTHORITY AND IF THE RECIPIENT ENTERPRISE MAINTAINS AT LEAST THE SAME PROPORTION OF NATIONAL CAPITAL AS BEFORE.

4. THE OTHER MAJOR CHANGE TO DECISION 24 AFFECTS BOLIVIA AND ECUADOR. THE CHANGE IS AN ADDITION TO THE SECOND PARAGRAPH OF ARTICLE 40 OF DECISION 24 WHICH DEFINES THE PRIMARY ACTIVITIES FOREIGN ENTERPRISES MAY UNDERTAKE UNDER A CONCESSION SYSTEM. THE NEW ADDITION READS: "FOR BOLIVIA AND ECUADOR SAID SECTOR (BASIC PRODUCTS) INCLUDES ALSO THE PRIMARY ACTIVITY OF LIVESTOCK RAISING (AGROPECUARIA)".

5. DECISION 108 MODIFIES THE LIST OF PRODUCTS RESERVED FOR PRODUCTION BY BOLIVIA AND ECUADOR. THE PERIOD DURING WHICH THEY ARE TO BE RESERVED IS EXTENDED FOUR YEARS FROM THE ORIGINAL DATE OF DECEMBER 31, 1980, TO THE END OF 1984.

6. THE DECISIONS ADOPTED ARE SUMMARIZED BELOW:
106: EXTENDS UNTIL FEBRUARY 25, 1977, THE PERIOD IN WHICH COUNTRIES ARE TO SUBMIT DATA ON LIVESTOCK SANITATION (SANIDAD),
107: APPROVES THE JUNTA BUDGET FOR 1977,
108: MODIFIES THE LIST OF PRODUCTS RESERVED FOR BOLIVIA AND
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ECUADOR,
109: MODIFIES DECISION 24
110: DIRECTS THE JUNTA TO SUBMIT PROPOSALS FOR TREATMENT OF MIXED ENTERPRISES BY FEBRUARY 14.

7. THE COMMISSION TOOK SEVERAL OTHER ACTIONS NOT FORMALIZED IN DECISIONS INCLUDING THE FOLLOWING:
A) THE COMMISSION NOTED THAT THE COMMON MINIMUM EXTERNAL TARIFA

IS TO APPLY UNTIL DECEMBER 31, 1979, AT WHICH TIME THE FIRST MOVE TO A COMMON EXTERNAL TARIFF IS TO BE UNDERTAKEN. THE COMMISSION SPECIFIED THAT CMXT LEVELS APPROVED IN DECISION 104 AND SUBSEQUENT CORRECTIONS ARE TO APPLY AS OF THE DATE OF APPROVAL BY THE COMMISSION.

B) THE COMMISSION RECOMMENDED THAT AN ADMINISTRATIVE COMMITTEE BE FORMED TO OVERSEE THE TERMS OF DECISION 56 (INTERNATIONAL HIGHWAY TRANSPORT) AND AGREED THAT CHILE SHOULD BE INCLUDED IN THE COMMITTEE WHEN FORMED.

C) THE JUNTA WAS DIRECTED TO CONSULT WITH THE MEMBER COUNTRIES AND PROVIDE BY FEBRUARY STUDIES AND PROPOSALS ON THE SUBREGIONAL SYSTEM OF CERTIFYING THE ORIGIN OF MERCHANDISE.

D) GALO MONTANO PEREZ (ECUADOR) WILL SERVE AS PRESIDENT OF THE COMMISSION DURING 1977.

8. COMMENT: THIS MEETING TOOK THE PACT SOME DISTANCE FURTHER IN RELAXING THE RESTRICTIONS ON FOREIGN INVESTMENT AS CHILE HAD DEMANDED, WITHOUT SURRENDERING THE BASIC CONTROL THE OTHER FIVE CONSIDERED VITAL. THE BRISK AND BUSINESS-LIKE TREATMENT OF A VARIETY OF SUBJECTS IN A BRIEF PERIOD WAS PROBABLY MEANT TO CONTRAST WITH THE DRAWN-OUT, INCONCLUSIVE SESSIONS HELD OVER THE PAST YEAR AND TO DEMONSTRATE THE VIABILITY AND COHESIVENESS OF THE SMALLER COMMON MARKET.

9. DOCUMENTATION BEING POUCHED.

10. IN VIEW OF RECENT DEPARTMENTAL STRICTURES ON REDUCING CABLE TRAFFIC, EMBASSY WOULD APPRECIATE INDICATION FROM ALL ADDRESSEES AS TO WHETHER ABOVE REPORT WOULD HAVE BEEN; SUFFICIENTLY TIMELY HAD IT BEEN SENT BY AIRGRAM.

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